APPENDIX

Revenue Act of 1932,[1] c. 209, 47 Stat. 169:

TITLE III—GIFT TAX

SEC. 501. IMPOSITION OF TAX.

(a) For the calendar year 1932 and each calendar year thereafter a tax, computed as provided in section 502, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; * * *.

SEC. 502. COMPUTATION OF TAX.

The tax for each calendar year shall be an amount equal to the excess of—

(1) a tax, computed in accordance with the Rate Schedule hereinafter set forth, or the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(2) a tax, computed in accordance with the Rate Schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

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SEC. 504. NET GIFTS.

(a) *General Definition.*—The term "net gifts" means the total amount of gifts made

[1] Gift tax provisions of the Internal Revenue Code apply only to 1940 and later years. See Section 1000 (a).

during the calendar year, less the deductions provided in section 505.

(b) *Gifts Less Than $5,000.*—In the case of gifts (other than of future interests in property) made to any person by the donor during the calendar year, the first $5,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

SEC. 505. DEDUCTIONS.

In computing net gifts for any calendar year there shall be allowed as deductions:

(a) *Residents.*—In the case of a citizen or resident—

(1) *Specific Exemption.*—An exemption of $50,000, less the aggregate of the amounts claimed and allowed as specific exemption for preceding calendar years.

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SEC. 506. GIFTS MADE IN PROPERTY.

If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

SEC. 530. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

Treasury Regulations 79 (1933 ed.):

ART. 19. *Valuation of property.*—(1) *General.*—The statute provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. Where the property is sold within a reasonable

period after the date of the gift, and it is shown that the selling price reflects the fair market value thereof as of the date of the gift, the selling price will be accepted as the amount of the gift. * * *

(3) *Stocks and bonds.*—The value of stocks and bonds listed upon a stock exchange should be determined by taking the mean between the highest and lowest quoted selling prices upon the date of the gift, except where such selling prices do not reflect the fair market value of the gift. If the gift was made on Sunday or on a holiday, the transactions of the next previous business day will govern. If there were no sales on the date of the gift, the value should be determined by taking the mean between the highest and lowest quoted selling prices upon the nearest date either before or after the date of the gift, if within a reasonable period. If the security is listed upon more than one exchange, the records of the principal exchange should be employed. In valuing listed stocks and bonds the donor should observe care to consult accurate records to obtain values as of the date of the gift.

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Treasury Regulations 79 (1936 ed.):

ART. 19. *Valuation of property.*—(1) *General.*—The statute provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of the property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The value of a particular kind of property is not to be determined by a forced sale price

or by an estimate of what a whole block or aggregate would fetch if placed upon the market at one and the same time. Such value is to be determined by ascertaining as a basis the fair market value at the time of the gift of each unit of the property. For example, in the case of shares of stocks or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the gift should be considered. Depreciation or appreciation in value subsequent to the time of the gift are not relevant factors and will not be considered.

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(3) *Stocks and bonds.*—The value at the date of the gift in case of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on such date.

The value of stocks and bonds listed upon a stock exchange shall be obtained by taking the mean between the highest and lowest quoted selling prices upon the date of the gift. * * *

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In exceptional cases in which it is established by clear and convincing evidence that the value per bond or share of any security determined upon the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, other relevant facts and elements of value will be considered in determining the fair market value. The size of the gift of any security is not a relevant factor and will not be considered in such determination.

Subdivisions (1) and (3) of Article 19 of Treasury Regulations 79 (1936 ed.), quoted above, were amended by T. D. 4901, approved May 18,

1939, 1939–1 Cum. Bull. (Part 1) 341, to read as follows (pp. 341–342):

(1) General.—The statute provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of the property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The value of a particular kind of property is not to be determined by a forced sale price. Such value is to be determined by ascertaining as a basis the fair market value at the time of the gift of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the gift should be considered.

(3) *Stocks and bonds.*—The value at the date of the gift in the case of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on such date.

In the case of stocks and bonds listed on a stock exchange the mean between the highest and lowest quoted selling prices on the date of the gift shall be considered as the fair market value per share or bond. If there were no sales on the date of the gift, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion

of the difference to or from the mean price obtaining on such nearest date before the date of the gift. For example, assume that sales of stock nearest the date of the gift (June 15) occurred two days before (June 13) and three days after (June 18) and that on such days the mean sale prices per share were $10 and $15, respectively. The price of $12 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If, however, on June 13 and June 18 the mean sale prices per share were $15 and $10, respectively, the price of $13 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If the security was listed on more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the donor should observe care to consult accurate records to obtain values as of the date of the gift.

In the case of stocks and bonds which are not listed upon an exchange, but are dealt in through brokers, or have a market, the fair market value shall be determined by taking the mean between the highest and lowest selling prices as of the date of the gift; or, if there were no sales on that date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the

date of the gift. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the donor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

If actual sales are not available during a reasonable period beginning before and ending after the date of the gift, the fair market value may be determined by taking the mean between the bona fide bid and asked prices on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift.

If actual sale prices or quoted bona fide bid and asked prices are available on a date within a reasonable period prior to the date of the gift, and if no actual sale prices or bona fide bid and asked prices are available on a date within a reasonable period after the date of the gift, or vice versa, then the mean between such highest and lowest available sale prices or bid and asked prices may be taken as the value.

If actual sales or bona fide bid and asked prices are not available, then, in the case of corporate or other bonds, the value is to be arrived at by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors, and, in the case of shares of stock, upon the basis of the company's net worth,

earning power, dividend-paying capacity, and all other relevant factors having a bearing upon the value of the stock. Complete financial and other data upon which the donor bases his valuation should be summitted with the return.

In cases in which it is established that the value per bond or share of any security determined on the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, then some reasonable modification of such basis or other relevant facts and elements of value shall be considered in determining fair market value.

The provisions quoted next above from T. D. 4901 now appear verbatim as Section 86.19 (a) and (c) of Treasury Regulations 108 (1943 ed.) relating to gift tax for years subsequent to 1939 under the Internal Revenue Code.

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